Supreme Court, U.S.
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In the
Supreme Court of the United States

OCTOBER TERM, 1997

ROBBIE A. VIATOR, DONIE R. HARMON, PAMELA S. BARBRY, RICHARD D. KEITH; PATRICIA DOUGLAS; ANGELA ROMERO; DONALD FONTENOT; GERALD LEE; ODELIA LOUISE TATE; DINA LOPEZ; NANCY H. BIMLE; MICHAEL JOSEPH TRAHAN; ANGELA R. LOPEZ; STEVEN PAUL JOHNSON; EVERETT PAUL MARSHALL; GARY CHESTER; KEVIN B. MATTE; CYNTHIA L. ROUGEAU; DAVID LEE PATTON; BRADLEY FONTENOT: TRACY BARNES: FRANK BERLIN: AND KATHLEEN CRICH
Individually and on behalf of all persons similarly situated
Petitioners

V.

DELCHAMPS, INCORPORATED
Respondents

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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34 pp

QUESTION PRESENTED

Whether the regulations promulgated pursuant to the Worker Adjustment and Retraining Notification Act ("WARN") have been arbitrarily interpreted to deny relief to workers who are employed at facilities within reasonable geographic proximity of one another and serving the same operational purpose on the basis that the employees and equipment were not regularly shared among facilities.

PARTIES TO THE PROCEEDING

The petitioners are Robbie A. Viator, Donie R. Harmon, Pamela S. Barbry, Richard D. Keith; Patricia Douglas; Angela Romero; Donald Fontenot; Gerald Lee; Odelia Louise Tate; Dina Lopez; Nancy H. Bimle; Michael Joseph Trahan; Angela R. Lopez; Steven Paul Johnson; Everett Paul Marshall; Gary Chester; Kevin B. Matte; Cynthia L. Rougeau; David Lee Patton; Bradley Fontenot; Tracy Barnes; Frank Berlin; and Kathleen Crich, individually and on behalf of all persons similarly situated.

The respondent is Delchamps, Incorporated

TABLE OF CONTENTS

Page

QUESTION PRESENTED.....i

PARTIES TO THE PROCEEDING.....ii

TABLE OF CONTENTS.....iii

TABLE OF AUTHORITIES.....iv

PETITION FOR A WRIT OF CERTIORARI.....1

OPINIONS BELOW.....1

JURISDICTION.....1

STATUTORY PROVISIONS & REGULATIONS.....1

STATEMENT OF THE CASE.....2

REASONS FOR GRANTING THE WRIT.....5

I. The decision below presents an important question of federal law that has not been, but should be, settled by this Court.....5

CONCLUSION.....15

ADDENDUM A.....Add.A-17

ADDENDUM B.....Add.B-21

TABLE OF AUTHORITIES

Cases **Page**

Belland v. Pension Benefit Guar. Corp., 726 F.2d 839, 844 (D.C.Cir.), *cert. denied* 469 U.S. 880, 105 S.Ct. 245, 83 L.Ed. 2d 183 (1984).....14

Butler v. Giant Markets, Inc., 1997 WL 177576 (M.D.Pa.).....6

Campesinos Unidos v. United States Dept. of Labor, 803 F.2d 1063, 1069 (9th Cir. 1986).....10

Chevron U.S.A., Inc. v. Natural Resources Defense Counsel, Inc., 467 U.S. 837, 842-45, 104 S.Ct. 2778, 2781-83, 81 L.Ed.2d 694 (1984).....6,10,16

Director, Office of Worker's Comp. v. Newport News, 115 S.Ct. 1278 (1995).....5

Forsyth v. Barr, 19 F.3d 1527, 1543 (5th Cir. 1994), *cert. denied*, 105 S.Ct. 195, 130 L.Ed. 2d 127.....10

International Union, UMW v. Jim Walter Resources, Inc., 6 F.3d 722, 724-25 (11th Cir. 1993).....6,15

TABLE OF AUTHORITIES (continued)

Cases **Page**

Martin v. American Cyanamid Co., 5 F.3d 140 (6th Cir. 1993).....11

Martin v. OSHRC, 941 F.2d 1051 (10th Cir. 1991).....11

Rifkin v. McDonnell Douglas Corp., 78 F.3d 1277, 1279 (8th Cir. 1996).....6

Solberg v. Inline Corp. 740 F.Supp. 680, 685 (D.Minn. 1990).....14

Washington v. Aircap Industries Corp., 831 F.Supp. 1292 (D.S.C. 1993).....14

TABLE OF AUTHORITIES (continued)

Page

Statutes and Regulations

20 C.F.R. § 639.....1

20 C.F.R. § 639.1.....7,11

20 C.F.R. § 639.3 (i).....8.12

20 C.F.R. § 639.3 (i) (3).....9,10,12,13

20 C.F.R. § 639.3 (i) (4).....9,10,12,13,14,15

28 U.S.C. § 1254 (1).....1

29 U.S.C. § 2101.....1,2,5,15

29 U.S.C. § 2101 (a) (2).....7

29 U.S.C. § 2107.....7,15

Other Authorites

9A Ind. Empl. Rights Man. (BNA) 595;954 (1988).....15

54 F.R. 16042, 16043, 16049 (1989).....12,13,14

H.R. Rep. No. 100-576, 100th Congress, Pub. L. 100-418 (1988).....7.12

PETITION FOR A WRIT OF CERTIORARI

Petitioners respectfully request that a writ of certiorari issue to review the decision of the Fifth Circuit, Court of Appeal, entered on April 15, 1997.

OPINIONS BELOW

The opinion of the Court of Appeal (App. 21-32) is not yet reported. The opinions and orders of the Western District of Louisiana, Lake Charles Division (App. 1-15) are unreported.

JURISDICTION

The opinion of which petitioners seek review was issued April 15, 1997. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1).

STATUTORY PROVISIONS AND REGULATIONS

The provisions of the Worker Adjustment and Retraining Notification Act ("WARN") 29 U.S.C. § 2101 et seq. are reprinted at App. 33-46. 20 C.F.R. § 639 et seq. are reprinted at App. 47-74.

STATEMENT OF THE CASE

This suit was instituted by plaintiffs against Delchamps, Inc. alleging that between February 25, 1995 and February 27, 1995, Delchamps, Inc. terminated plaintiffs and other employees without the notice required by the Worker Adjustment and Retraining Notification Act ("WARN") 29 U.S.C. § 2101 et seq., where an employer employs collectively fifty or more employees at facilities within a single site of employment. Plaintiffs filed this suit in their individual capacities and as representatives of all persons similarly situated. Delchamps, Inc. conceded that the three stores in the Lake Charles area collectively had over fifty employees and that it did not give sixty days prior written notice to its employees as required by the WARN Act, but contended it was not required to do so.

On February 22, 1996, the Court issued a minute entry stating it would consider summary judgment *sua sponte* since the essential question was one of law as to whether the three Delchamps stores in the greater Lake Charles area, each employing fewer than fifty employees, but collectively more than fifty constituted a "single site of employment" so as to meet a threshold requirement for WARN application. (App. 1-3). On July 2, 1996, the Magistrate Judge issued a report and recommendation accepted by the District Judge, opining that the three store facilities in the greater Lake Charles area were three separate sites even though the facilities were in close geographic proximity and shared the same operational purpose. (App. 4-15). On April 15, 1997, the United States, Fifth Circuit, Court of Appeal affirmed the District Court ruling, holding that the Department of Labor regulations required a "regular" sharing of staff and

equipment. (App. 21-46).

The facts of the case reveal a close relationship among the three stores in the Lake Charles area. All three stores opened at about the same time, were exactly the same size, and were close to one another. On January 16, 1984, Delchamps, Inc. leased two buildings containing 33,387 square feet each in the greater Lake Charles area. (Stores No. 104 and 106). On April 17, 1984, Delchamps, Inc., leased a third store in the greater Lake Charles area consisting of same square footage. (Store No. 105). Store no. 104 and store no. 105 were located 5.4 road miles apart. Store no. 104 and store no. 106 were located 9.4 road miles apart. Store no. 105 and store no. 106 were located 12 road miles apart. (App. 164-166; 24-25).

When the three facilities first opened, Delchamps, Inc. launched a six month coordinated advertising campaign in the local paper, The Lake Charles American Press, publicizing all three of the stores. (App. 148; 25). Just as all three stores opened at about the same time, all three stores closed between February 25th and February 27th of 1995. (App. 101, 150).

As to the management of the stores, prior to closing, one District Manager, Mr. Wayne Wiggins, exercised "continuous, direct supervision of day-to-day store operations" at all three of these stores as well as others. From November 1994 through February 27, 1995 all three stores were managed by a single manager, Bryan Bradley, rather than each store having a separate store manager. (App. 157-158; 144; 164-165).

From the record, the fact finder may infer that one of the

major business considerations of Delchamps in locating the three stores in close proximity of each other was to allow Delchamps to blend its more experienced and skilled workers with newer untrained employees to assure that the work was properly performed, maximizing the efficiency of its total operation in the Lake Charles area. (See Addendum A and B). Also, full-time personnel employed could be (and were) shifted among the three stores in the Lake Charles area, as employees became sick, went on vacation or holidays, or left employment with Delchamps. (App. 134-135). Similarly, part-time employees were also allowed to supplement hours by filling the personnel needs of other stores in the greater Lake Charles area. (App. 132).

Managerial staff was transferred among the facilities to identify who was responsible for excessive shrinkage, that is, the difference between merchandise delivered and merchandise sold as controlling shrinkage was one of Delchamps' principal concerns. (App. 130; 139-142).

The three stores also shared supplies, merchandise and equipment. While equipment was shared among the three stores only occasionally, borrowing of supplies ranged from occasional to often and merchandise was transferred among the three facilities to alleviate shortages and reduce overages arising when one store ordered too little of an item and another ordered too much on a regular basis. (App. 137-138).

The operational dependence of the three stores was further evidenced by the financial interrelationship of the three stores. In the calendar year prior to closing, 1994, Delchamps hoped that Store No. 104 would generate gross sales of $5,316,000 in 1994. (App. 107). The annualized

1994 sales amounted to $5,304,000, $12,000 below its goal. (App. 107). However, Delchamps had budgeted $607,365 for Store No. 104, and annualized expenses amounted only to $572,364; therefore, Store No. 104 actually exceeded Delchamps' goal, (App. 109). Store no. 106 was also profitable in 1994. (App. 119). Projected gross sales in 1994 were $6,911,000. Annualized 1994 sales amounted to $6,552,000, a shortfall of $359,000, for which store no. 106 compensated by reducing expenses $43,994.00. (App. 121). Only Store No. 105 was unprofitable in 1994, missing projected gross sales by $1,352,000. (App. 113). It may be readily inferred that all three stores were closed because store no 105 was not profitable.

REASONS FOR GRANTING THE WRIT

I. The Decision Below Presents An Important Question of Federal Law That Has Not Been, But Should Be, Settled By This Court

In a recent opinion, Justice Scalia writes that the ". . .last redoubt of losing causes. . . [is] . . .the proposition that the statute at hand should be liberally construed to achieve its purposes." *Director, Office of Worker's Comp. v. Newport News,* 115 S.Ct. 1278 (1995). With all due candor to this Honorable Court, petitioners admit that this case appears, but only at first blush, to present such a cause brought under the Worker's Adjustment Notification and Retraining ("WARN") Act. 29 U.S.C. § 2101 et seq. Petitioners respectfully submit that the opinion below represents the third

appeals court[1] to address WARN that has gone beyond the principle of deference afforded administrative interpretations enunciated by this Court in *Chevron U.S.A., Inc. v. Natural Resources Defense Counsel, Inc.*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984), by disregarding the reasonableness requirement of regulatory interpretation. The trend developing in the judicial decisions is to interpret WARN in a manner which affords protection to some workers, their families, and communities while arbitrarily denying the same relief to others. Petitioners respectfully submit that since the Eleventh Circuit, Eighth Circuit and Fifth Circuit have spoken to the issue of what constitutes a single site of employment, and a case is pending, at district level[2], in the Third Circuit, on that same issue, the time is appropriate for this Court to address the ambiguity in the Department of Labor regulations relating to the issue of "single site of employment", and consider whether the present interpretation of same conflicts with this Court's rquirement that agency regulations be given controlling weight ". . .unless they are arbitrary, capricious, or manifestly contrary to the statute" pursuant to which the regulations were adopted. *Chevron*, 467 U.S. at 844, 104 S.Ct. at 2782, 81 L.Ed. 2d 694.

The Worker Adjustment Notification and Retraining (WARN) Act mandates that employers of more than 100 persons provide a minimum of sixty (60) days written notice before "the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating

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[1] *Viator v. Delchamps*, ____ F.3d ____ (5th Cir. 1997); *Rifkin v. McDonnell Douglas Corp.*, 78 F.3d 1277 (8th Cir. 1996); *International Union, UMW v. Jim Walter Resources*, 6 F.3d 722 (11th Cir. 1993).

[2] *Butler v. Giant Markets, Inc.*, 1997 WL 177576 (M.D.Pa.)

units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees." 29 U.S.C. § 2101 (a) (2).

The term "single site of employment" was substituted for the phrase initially proposed, namely, "place of employment" *H. R. Rep. No. 100-576, 100th Congress, Pub. L. 100-418 (1988).* Congress, however, stopped short of defining "single site of employment" and instead conferred authority upon the Secretary of Labor to promulgate regulations, including interpretive regulations, necessary to implement the purpose of WARN. 29 U.S.C. § 2107.

The promulgated regulations, 20 C.F.R. § 639.1 et seq., provide as follows:

"§ 639.3 **Definitions**:

(i) *Single Site of Employment*; (1) A single site of employment can refer to either a single location or a group of contiguous locations. Groups of structures which form a campus or industrial park, or separate facilities across the street from one another, may be considered a single site of employment.

(3) **Separate buildings or areas which are not directly connected or in immediate proximity may be considered a single site of employment if they are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment.** An example is an

employer who manages a number of warehouses in an area but who regularly shifts or rotates the same employees from one building to another

(4) Non-contiguous sites in the same geographic area which do not share **the same staff or operational purpose** should not be considered a single site. For example, assembly plants which are located on opposite sides of a town and which are managed by a single employer are separate sites if they employ different workers.

(5) Contiguous buildings owned by the same employer which have separate management, produce different products, and have separate workforces are considered separate single sites of employment.

* * *

(8) The term 'single site' of employment may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to evade the purpose of the Act to provide notice is not acceptable." 20 C.F.R. § 639.3 (i) [Emphasis added]

After considering the regulations and case law, the Fifth Circuit, Court of Appeal held in the present case:

"[S]eparate facilities are only to be treated as a single site of employment if all three factors identified in the regulations are met, namely; (1) the separate facilities are in

> 'reasonable geographic proximity' of one another; (2) they are 'used for the same purpose'; (3) and they 'share the same staff and equipment' 20 C.F.R. § 639.3 (i) (3). Any other reading would be inconsistent with the plain language of the regulation." [App. 28-29].

The Court further elaborated that facilities must "regularly" share staff and equipment to constitute a single site of employment. (App. 31). Petitioners respectfully disagree with the lower Court's interpretation of the regulations as requiring sharing of the same employees and equipment among facilities and that such sharing be "regular," particularly where the other two factors [(1) and (2) above] militate strongly toward finding a single site of employment. The lower court's interpretation raises a question which has not been addressed by any court to date, that is, the meaning of the curious "or" set forth in 20 C.F.R. § 639.3. (i) (4).

Under the lower Court's interpretation this subsection would read:

> "Non-contiguous sites in the same geographic area which do not share the same staff **and** operational purpose should not be considered a single site." [Emphasis added]

This is not, however, the regulation which the Department of Labor adopted. 20 C.F.R. § 639.3 (i) (4) provides:

> "Non-contiguous sites in the geographic area which do not share the same staff **or** operational purpose should not be considered a single site." [Emphasis added]

The only reasonable manner in which § 639.3 (i) (3) and § 639.3 (i) (4) may be reconciled is to require one, but not both, of these other factors. To conclude otherwise would arbitrarily distinguish between grocery workers employed at one superstore in a community, and grocery workers employed at separate store facilities throughout that same community.

The basic tenets of statutory construction are generally applied when courts construe an administrative regulation. *Nebraska Pharmacists v. Dept. of Social Services,*, 863 F.Supp. 1037 (D.Neb. 1994). Terms connected by the disjunctive, "or", are normally read to have separate meanings and significance. *United States v. K. Behnezhad,* 907 F.2d 896 (9th Cir. 1990). The lower Court's interpretation fails to reconcile § 639.3 (i) (3) with § 639.3 (i) (4) and renders the latter provision superfluous.[3]

Petitioners respectfully submit that any reconciliation of the ambiguity between § 639.3 (i) (3) and § 639.3 (i) (4) must be done in accordance with the *Chevron* guidelines. Under *Chevron,* the lower court's interpretation need not be the best interpretation, but must be reasonable—one that does not result in arbitrary distinctions.

In addressing whether the lower court's interpretation is arbitrary, the purpose for which WARN was enacted must be considered. The purpose of the WARN Act set forth in

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[3] In *Forsyth v. Barr,* 19 F.3d 1527, 1543 (5th Cir. 1994), the Court states, ". . .a maxim of statutory construction precludes one part being read so as to render another superfluous." *cert. denied,* 115 S.Ct. 195, 130 L.Ed. 2d 127. "The task of the judiciary is ' . . .to interpret the regulation as a whole, in light of the overall statutory and regulatory scheme, and not to give force to one phrase in isolation." *Campesinos Unidos v. United States Dept. of Labor,* 803 F.2d 1063, 1069 (9th Cir. 1986).

the preamble[4] of the regulations is as follows:

> **§ 639.1 Purpose and Scope**
>
> (a) Purpose of *WARN*
>
> **The Worker Adjustment and Retraining Notification Act (WARN or the Act) provides protection to workers, their families and communities by requiring employers to provide notification 60 calendar days in advance of plant closing and mass layoffs.** Advance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market. WARN also provides for notice to State dislocated workers so that dislocated worker assistance can be promptly provided. [Emphasis added]

In light of this purpose, it is reasonable to interpret WARN as requiring that separate facilities be in reasonable geographic proximity. The WARN Act is intended to protect not only workers and their families, but communities. The essential nature of this element is emphasizd by the regulations which make reference to the geographic requirement

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[4] It is axiomatic that a court may consult the preamble, accompanying a regulatory enactment, as a source of interpretation. *Martin v. OSHRC*, 941 F.2d 1051 (10th Cir. 1991); *Martin v. American Cyanamid Co.*, 5 F.3d 140 (6th Cir. 1993).

in both § 639.3 (i) (3) amd (4). It is also reasonable to require that the separate facilities share either 1) the same staff and equipment or 2) the same operational purpose so that one employer who is engaged in a number of **different** enterprises in a community is not arbitrarily required to comply with an Act that would not apply if those businesses were operated by separate employers in that community. However, to require that facilities share both staff and equipment and they share the same operational purpose before WARN is triggered raises form above substance and discounts the critical requirment voiced by the Department of Labor after the regulations were promulgated, namely, whether the separate facilities share an "inextricable operational connection" that would warrant treatment of geographically remote workplaces as a single site of employment. 54 F.R. 16042, 16049 (1989). The Depatment of Labor states:

> "In developing these final regulations, DOL has attempted to faithfully follow the language and intent of WARN. The Department also has been aware that some of the provisions of WARN may be ambiguous. In an effort to assist the public in avoiding unintentional noncompliance, DOL has tried to point out potential problems and in some cases has suggested methods of compliance. 54 F.R. at 16043.
>
> * * *
>
> Section 639.3 (i) Definition of 'Single Site of Employment'
>
> This section provides a definition of 'single site of employment' which is drawn from the April 1988 Conference Report on H.R. 3. (H.R. Rep

100-576, 100th Cong., 2nd Sess., 1046 (April 20, 1988)). **As a general rule, a geographic connection or proximity is required to define 'single site of employment.'** Even where several distinct operations are performed at a geographically connected site, that building or complex will be counted as a single site of employment. **The regulations also recognize that, in some limited cases, geographically separate sites may still be considered a single site of employment because of an inextricable operational connection.** DOL intends this exception to be a narrow one to cover those cases where separate buildings are used for the same purpose and share the same staff and equipment.

Several commenters expressed concerns that the definition of single site of employment could be read either too broadly or too narrowly. Two commenters were concerned that the discussion of geographically separate but operationally connected sites in § 639.3 (i) (2) could be read broadly to cover separate sites which occasionally share staff or which are supplied from a common source. As noted above, this exception is intended to be read narrowly to cover those rare situations in which two separate buildings share staff, equipment and functions. DOL believes that the language of the exception conveys this narrow reading." 54 F.R. at 16049.

Petitioners submit that § 639.3 (i) (3) and § 639.3 (i) (4) are reconcilable if § 369.3 (i) (3) is interpreted as illustrative of when, as a matter of law, a "single site of employment"

is established. The Department of Labor also established, however, a minimum threshold level below which an employer need not be concerned about WARN by drafting the language of § 639.3 (i) (4).

The present case falls squarely in the interstices, and the guidance offered by the Department of Labor 54 F.R. 16042, for addressing the ambiguity offers a rational "inextricable operational connection" test which has been arbitrarily limited to instances of regular sharing of staff and equipment.

Such interpretation affords protection to a community with one superstore employing fifty employees, and arbitrarily denies protection to that same community when three grocery stores employing 147 (49 employees per store) employees are closed. Congress entrusted the judiciary with the duty of enforcing WARN. Judicial deference to the administrative agency that promulgated the regulations is due, but only to an extent. The lower court decision is arbitrary.

As a remedial statute, the WARN Act "must be construed broadly" to effectuate its purpose. *Solberg v. Inline Corp.*, 740 F.Supp. 680, 685 (D.Minn. 1990), citing *Belland v. Pension Benefit Guar. Corp.*, 726 F.2d 839, 844 (D.C.Cir.), cert. denied 469 U.S. 880, 105 S.Ct. 245, 83 L.Ed. 2d 183 (1984); *Washington v. Aircap Industries Corp.*, 831 F.Supp. 1292 (D.S.C. 1993).

The factors considered by the courts in determining whether separate work places constitute a single site of employment are all related to one central question, namely, whether there is ". . .a sufficient degree of geographic

contiguity as well as an operational connection." *International Union, U.M.W. v. Jim Walter Resources,* 6 F.3d 722, quoting *9A Ind. Empl. Rights Man.* (BNA) 595:954 (1988). The intention of the Department of Labor was that there be some "inextricable connection" warranting treatment as a single site, and while the "regular" sharing of staff and equipment is illustrative of such connection, petitioners submit that it is merely illustrative. Such connection may also exist, as in the present case, where facilities in reasonable geographic proximity share the same operational purpose even absent a sharing of staff or equipment, or alternatively, even absent a "regular" sharing of staff and equipment.

CONCLUSION

Congress enacted the Worker Adjustment Notification and Retraining (WARN) Act, 29 U.S.C. § 2101, et. seq. to provide protection to workers, their families and communities by requiring employers to provide notification sixty days before a shutdown of one or more facilities within a single site of employment. Congress conferred the power upon the Department of Labor to prescribe regulations necessary to implement this law. 29 U.S.C. § 2107. The promulgated regulations state that non-contiguous sites in the same geographic area which do not share the same staff "or" operational purpose should not be considered a single site. 20 C.F.R. § 639.3 (i) (4). In the instant case, where the lower court has expressly found that three stores in the greater Lake Charles area were not only in the same geographic area, but also shared the same operational purpose, it was error to conclude, as a matter of law, that the facilities were not

within a single site of employment. To interpret the Department of Labor regulations as requiring an inextricable operational connection for separate facilities to constitute a single site of employment is reasonable, but to interpret those regulations as requiring that the inextricable operational connection take the form of a regular sharing of the same employees and equipment where the facilities share the same opertional purpose is arbitrary and inconsistent with the opinion of this Court in the *Chevron* case.

For the foregoing reasons, petitioners respectfully urge that this petition for a writ of certiorri be granted.

Respectfully submitted:

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July 11, 1997

ADDENDUM A

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(1) Julius Courville, Jr.	Salaried	02/19/85	Market Manager	105, 104
(2) Frank E. Berlin	$14.05	09/28/87	Market	104,105,106,105
(3) Bradley Fontenot	$10.80	12/16/84	Market	106,105,104,106
(4) Kevin B. Matte	$14.05	05/17/85	Market	105,104
(5) David L. Patton	$10.00	06/15/92	Market	104,106
(6) Wesley A. Schirmer	Salaried	03/17/86	Market	105,106,105,104, 105,106,105
(7) Mark L. Schultz	$14.05	01/25/91	Market	105,106

ADDENDUM A (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(8) Steven P. Johnson	$11.30	04/15/91	Produce Manager	104,105,106
(9) Donald J. Fontenot	$12.35	04/07/86	Produce Manager	105,104
(10) Gary A. Chester	$10.80	09/20/85	Produce	105,106
(11) Nancy Bimle	$12.55	07/30/84	Deli/Bakery	104,105,104,106
(12) Sharlene R. Hart	$10.80	08/01/88	Deli/Bakery	104,105
(13) Dina E. Lopez	$11.95	01/06/86	Deli/Bakery	104,106,104,105
(14) Angela F. Romero	$12.55	10/30/85	Deli/Bakery	105,104
(15) Cynthia L. Rogeau	$10.80	09/24/84	Deli/Bakery	104,105

ADDENDUM A (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
16) Anita A. Quibodeaux	$10.80	09/04/84	Health/Beauty	104,106
(17) Therman T. Black	$ 9.90	12/02/90	Grocery	105,104
(18) Donie R. Harmon	$10.80	03/15/85	Grocery	105,104
(19) Paul James, III	$11.95	06/15/85	Grocery	105,106,105
(20) Gerald W. Lee	$10.80	08/07/85	Grocery	105,104
(21) Earl Thompson, Jr.	$10.80	05/25/87	Grocery	105,104
(22) Sandra F. Chapman	$10.80	03/25/85	Checkout	106,105
(23) Kenneth W. Clark	$10.80	10/02/84	Checkout	104,106

ADDENDUM A (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(24) Dabrina D. Cole	$10.80	10/05/89	Checkout	106,104
(25) Kirkland J. Nevills	$ 4.40	11/13/94	Checkout	105,104
(26) Randall G. Martens	Salaried	08/07/89	Assst. manager	106,104,105
(27) Bryan M. Bradley	Salaried	12/17/84	Store manager	104,106,105,106, 104,105,106, and all three stores simultaneously

ADDENDUM B

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(1) Derek M. Courville	$ 5.00	10/17/94	Market	105
(2) Kenneth R. Cole	Salaried	08/05/91	Market	106
(3) Vickie H. Pousson	$11.30	02/14/85	Produce	105
(4) Cynthia D. Soileau	$ 4.50	07/11/94	Deli/Bakery	105
(5) Debra A. Chapman	$ 4.50	06/06/94	Deli/Bakery	106
(6) Angela R. Lopez	$ 4.65	01/16/94	Deli/Bakery	106
(7) Steven M. Davis	$ 5.05	07/29/91	Deli/Bakery	104
(8) Patina Hardy	$ 5.30	05/18/92	Deli/Bakery	104

ADDENDUM B (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(9) Sherry L. Carnahan	$ 5.55	04/29/91	Deli/Bakery	104
(10) Barbara J. Gobert	$ 5.55	04/29/91	Deli/Bakery	106
(11) Tina M. Thibodeaux	$ 7.60	12/10/90	Deli/Bakery	104
(12) Patricia A. Douglas	$ 9.40	07/08/90	Deli/Bakery	106
(13) Gertrude Cummings	$10.80	03/20/85	Deli/Bakery	105
(14) Timothy N. Bible	$ 4.50	09/04/94	Grocery	104
(15) Mark L. McGee	$ 4.50	07/10/94	Grocery	104
(16) Jeremy G. Brown	$ 4.50	01/15/95	Grocery	105

ADDENDUM B (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(17) Jearith M. Lee	$ 4.50	10/02/94	Grocery	106
(18) Eric C. Sens	$ 4.65	01/05/94	Grocery	104
(19) Wayne E. Stone	$ 5.05	03/01/92	Grocery	106
(20) James S. Leleux	$ 5.30	07/28/91	Grocery	106
(21) Martin A. Guillory, Jr.	$ 6.10	05/22/90	Grocery	105
(22) David G. Adams	$10.25	03/13/90	Grocery	105
(23) Robbie A. Viator	$10.80	02/11/85	Grocery	105

ADDENDUM B (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(24) John M. Malveau	$10.80	06/22/89	Grocery	105
(25) Cindy M. Vincent	$10.80	12/27/84	Grocery	106
(26) Richard D. Keith	$11.94	09/06/87	Grocery	106
(27) George E. Ashley	$ 4.50	06/01/94	Checkout	104
(28) Letha A. Keyes	$ 4.50	10/06/93	Checkout	104
(29) Marzetta D. Landry	$ 4.50	12/26/94	Checkout	104
(30) Marc J. Clarke	$ 4.50	09/06/94	Checkout	104
(31) Sabrina M. Cooper	$ 4.50	09/12/94	Checkout	104

ADDENDUM B (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(32) Monica S. Gripp	$ 4.50	07/13/94	Checkout	105
(33) Kimberly Y. Semien	$ 4.50	07/11/94	Checkout	105
(34) Joseph E. Clements	$ 4.50	10/30/94	Checkout	106
(35) Allison L. Savoie	$ 4.65	04/26/93	Checkout	104
(36) Melissa J. Brittain	$ 4.65	10/11/93	Checkout	104
(37) Amy R. Richard	$ 4.65	11/04/93	Checkout	104
(38) Elsie M. Fuselier	$ 4.65	09/13/93	Checkout	105
(39) Doris S. Ardoin	$ 4.65	10/31/93	Checkout	105

ADDENDUM B (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(40) Frances J. Horner	$ 4.65	12/27/93	Checkout	105
(41) Trudi L. Strahan	$ 4.65	11/28/93	Checkout	106
(42) Stephanie H. Clement	$ 4.80	11/11/92	Checkout	104
(43) Rebecca E. Ash	$ 5.05	01/20/93	Checkout	105
(44) Kristi M. Pettifield	$ 5.05	12/14/92	Checkout	105
(45) Jill A. LeBlanc	$10.25	03/19/90	Checkout	106
(46 Gail L. Reimer	$10.40	12/04/89	Checkout	105

ADDENDUM B (continued)

Employee	Earnings	Date of Hire	Department/Title	Stores Worked
(47) Odelia L. Tate	$10.80	01/19/87	Checkout	104
(48) Melissa Kelley	$10.80	06/11/87	Checkout	104
(49) Tabetha A. Stutes	$11.40	10/07/87	Checkout	106
(50) Kathleen K. Crick	$10.80	01/08/90	Floral	104
(51) Ida M. Robicheaux	$10.80	09/03/86	Floral	105
(52) Gloria A. Cleaton	$ 6.25	04/26/93	Floral	106
(53) Tracy M. Barnes	$ 5.80	06/12/89	Seafood	105